UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:19-cv-277-MOC-DCK

FREDA J. DAY,)
Plaintiff,)
vs.)
OPRAH WINFREY, et al.,	ORDER
	<i>)</i>
Defendants.	<i>)</i>

THIS MATTER is before the Court on Plaintiff's pro se Motion for Reconsideration re Clerk's Judgment, Order on Motion for Summary Judgment. (Doc. No. 66).

The Court will deny the motion. As Defendants note in their response, the purported motion for reconsideration is procedurally improper because this Court lacks jurisdiction to grant it. Plaintiff appealed the dismissal of this action to the Fourth Circuit on May 28, 2021. (Doc. No. 61). The filing of that appeal divests this Court of jurisdiction over those aspects of the case involved in the appeal (which is, in this case, the entire action) unless or until the Circuit Court remands it to this Court. Fobian v. Storage Tech. Corp., 164 F.3d 887, 890 (4th Cir. 1999). Although "[a] district court retains jurisdiction over matters in aid of the appeal," a district court does not act "in aid of the appeal" by vacating the decision from which the appeal was taken and reopening the underlying case. <u>Dunston v. Unknown</u>, 840 F. App'x 746 (4th Cir. 2021).

Thus, Plaintiff's pro se Motion for Reconsideration re Clerk's Judgment, Order on Motion for Summary Judgment, (Doc. No. 66), is **DENIED**.

Signed: May 26, 2022

Max O. Cogburn Jr United States District Judge